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## Citations

The date on which taxes are due, does not determine the date when the lien of the tax attaches. Sec 9781-9792, Art 2 Ch 59 R.S.Mo 1929; 137.51 Martin v Childress, 134 S.W.2nd 136; 345 Mo.495.

City of St.Louis v.Bauman, Collector. 348 Mo. 164.

Supreme Court Rule 1.04(a) amended Jan.12, 1954, Effective Sept.1, 1954.

Art.2 Chapter 59 R.S.Mo.1929

State ex rel Nat'l Outdoor Adv.Co. v Seehorn 187 SW 2d 657; 354 Mo 170. Appellant has responsibility for making full Tr. of the Record.

Sec 10974 R.S.Mo 1929,
Administrative duty of City to enter names of owners of Record, on Assessors Plat Books, yearly.

City of St.Louis v.Wall, Anne M.Evans intervenor.
Evans v.City of St.Louis, Cause 75,398-C, 355 Mo 790.
198 S.W.2d (9)

Evans v.Buente et al.1948, Cause 17,723-D June Term
Fee simple to east 99½ ft Papin by 45 18th St. found by Circuit Court vested in Anne M.Evans, and that she had paid an adequate price for her property.

Act V Sec.e of Mo.Constitution, 1945.

5th .Amendment of U.S.Constitution

14th Amendment of U.S.Con Sec.1

Evans v.City of St.Louis, C.C.No. 75398-C Supreme Court No.79785, May Term 1946.
Jones-Munger Act, Laws of Mo, 1933 pp 425-429 re-enacted and amended 1949 V.A.M.S. Ch 140, Title 10; R.S.Mo.1939.p.878 Sec.9952A-1 to 18 provide for collection of Delinquent tax by suit.

SUPREME COURT OF THE UNITED STATES
October Term, 1955

No.....

PETITION FOR WRIT OF CERTIORARI

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Cause No. 44,701, Supreme Court of Mo.

Anne M. Evans, Appellant-pl.

vs.

Martha Buente et al.
The City of St. Louis — Respondent
Union Electric Co. of Mo. — Intervenor
a corporation,

xxxxxxx

Cause No. 44,807, Supreme Court of Mo.

Anne M. Evans, Appellant-df.

vs.

St. Louis Housing Authority
a municipal Corporation — Respondent-Pl.
City of St. Louis
a municipal Corporation — Intervenor

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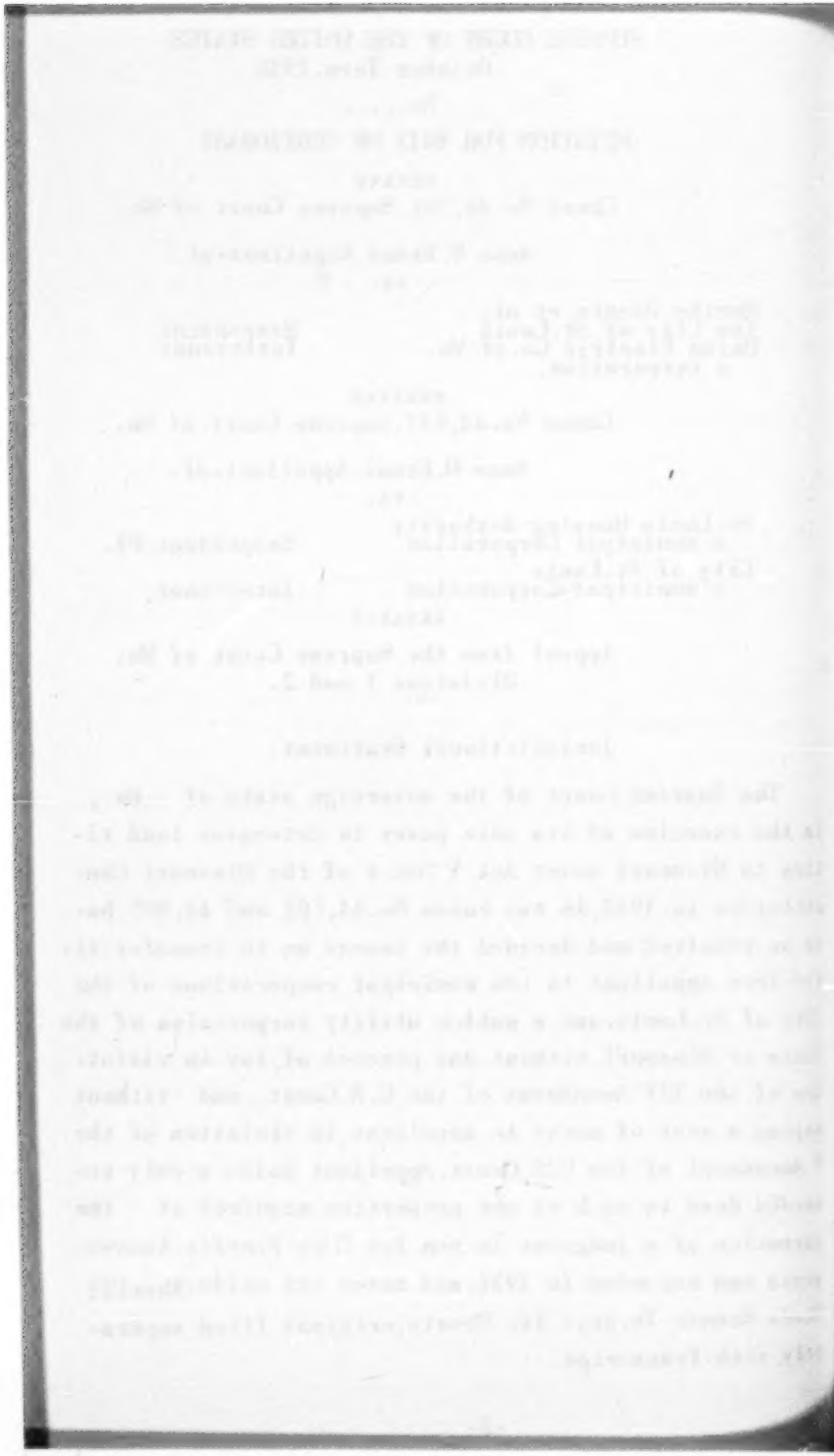
Appeal from the Supreme Court of Mo.
Divisions 1 and 2.

Jurisdictional Statement.

The Supreme Court of the sovereign state of Mo., in the exercise of its sole power to determine land titles in Missouri under Act V Sec. e of the Missouri Constitution in 1945, in two cases No. 44,701 and 44,807 have so resolved and decided the issues as to transfer title from appellant to two municipal corporations of the City of St. Louis, and a public utility corporation of the State of Missouri, without due process of law in violation of the XIV Amendment of the U. S. Const., and without paying a cent of money to appellant in violation of the V Amendment of the U. S. Const. Appellant holds a duly recorded deed to each of the properties acquired at the execution of a judgment in rem for City Benefit Assessments and recorded in 1936, and never set aside. Sheriff Deeds Buente Tr. page 34; Prante, original filed separately with Transcript.



The Circuit Court permitted the City of St. Louis, and the Union Electric Company of Missouri, a corporation, to enter suits as intervenors, involving title to said property, on information that they had a vested interest in the property belonging to appellant, but without proof of any transfer of title from appellant.

Both were Intervenors in the above suits, securing judgment which amounted to judgment of fee simple title in the Circuit Court. Both refused to sign the verification of the Transcripts on Appeal to the Supreme Court by appellant at great cost and much labor, although signed by both the attorney for Plaintiff and the attorney for Defendant on both Transcripts.

Both of the Intervenors failed to file any corrected Transcript as required under Supreme Court rule 1.04 Both filed motions to dismiss the appeal as to them. By sustaining these motions to dismiss, fee simple title was affirmed, without passing on the validity of the Collector's Deeds from Buente and Prante to the City of St. Louis. These 4 Collector's deeds from Prante and Buente to the City of St. Louis were used as a link in the title to pass Appellant's property to the Union Electric Co., and to the St. Louis Housing Authority and the U.S. Housing Authority, for use as security in issuing tax-free bonds to the amount of $185,000.00, which bonds have been sold and the money raised, and appellants 15 family apartment buildings razed. See 641 U.S.S.C.

Both properties were improved with brick buildings which the City had torn down without notice to appellant who held fee simple title under 2 Sheriff's Deeds.

Such decisions in transferring land titles in Missouri from a private citizen to a Public Utility and 2 Municipal corporations, a denial of her rights under the Federal Constitution, would justify the exercise of the U. S. Supreme Court, of its power of supervision over such decisions of a State Supreme Court.

History of the Cause of Action.
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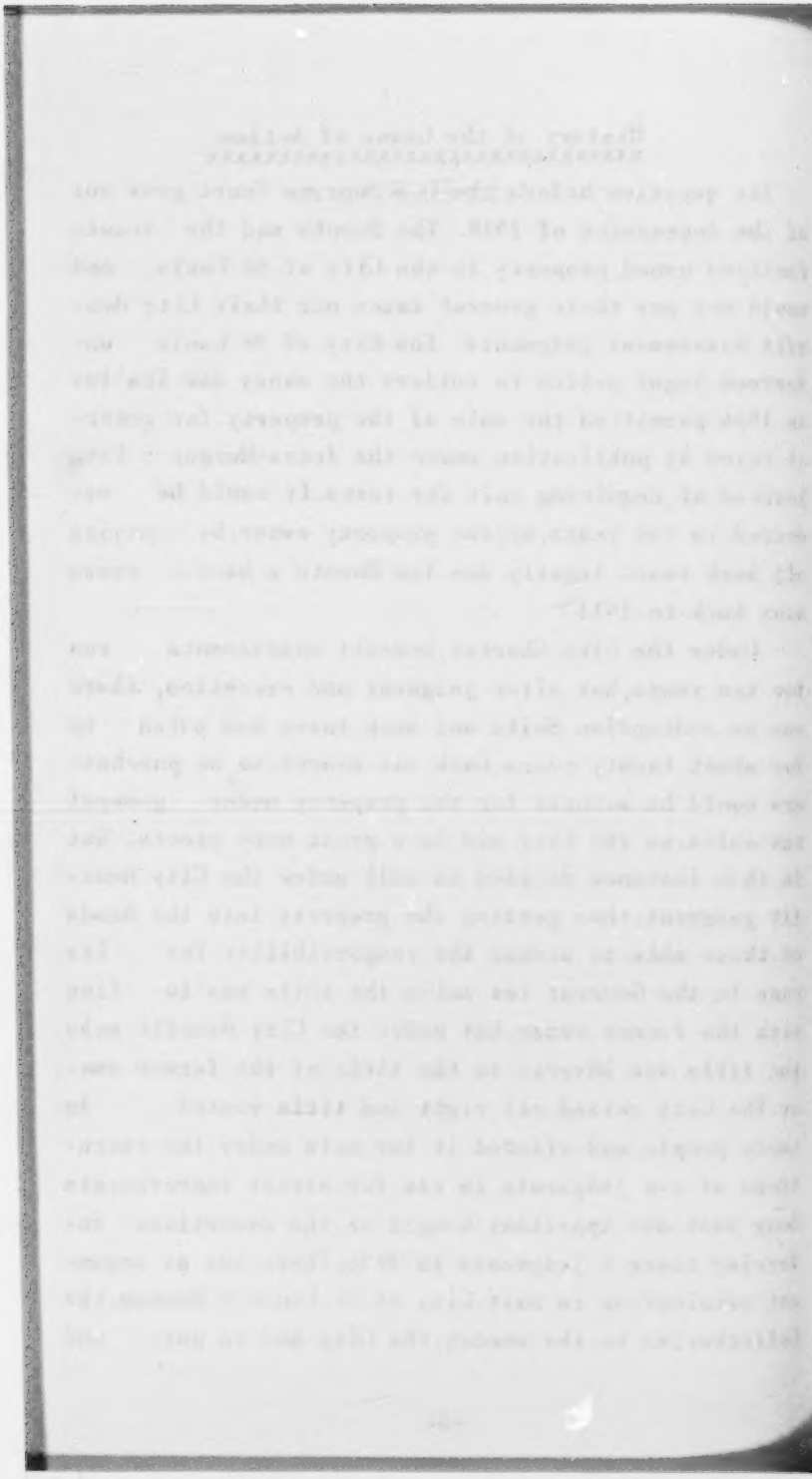
The question before the U.S. Supreme Court grew out of the depression of 1930. The Buente and the Frante families owned property in the City of St.Louis, and could not pay their general taxes nor their City Benefit Assessment judgments. The City of St.Louis undertook legal action to collect the money due.The law in 1936 permitted the sale of the property for general taxes by publication under the Jones-Munger law, instead of requiring suit for taxes.It could be redeemed in two years,by the property owner,by paying all back taxes legally due.The Buente's back taxes went back to 1914.

Under the City Charter,benefit assessments ran for ten years,but after judgment and execution, there was no redemption.Suits and back taxes had piled up for about twenty years.Cash was scarce,so no purchasers could be secured for the property under general tax sales,so the City bid in a great many pieces, but in this instance decided to sell under the City Benefit judgment,thus getting the property into the hands of those able to assume the responsibility for its care.In the General tax sales the title was in line with the former owner,but under the City Benefit sale the title was adverse to the title of the former owner.The City seized all right and title vested in these people,and offered it for sale under the executions of two judgments in rem for street improvements long past due.Appellant bought at the executions enforcing these 2 judgments in 1936.There was an argument culminating in suit,City of St.Louis v.Bauman,the Collector,as to the amount the City had to pay, and



it was decided that no taxes were due when owned by the City. Appellant recorded her two sheriff's deeds and assumed the responsibility of ownership which was a heavy burden because of the delapidated condition of the property. The Buente property is that which the Union Electric Light and Power Co is interested; Tr. 34[b]-41[b] Prante property is that which the St. Louis Housing Authority is interested. Tr. 67-67-D Prante Tr p. 37-41.

Under Art. 2, C. 59 R.S.Mo. 1929, taxes were delinquent on these 2 pieces of property in Dec. 1937 Tr 24[b] Under Sec. 10974; R.S.Mo. 1929, an administrative duty was required of the City of St. Louis, that of entering the names of new owners of the newly recorded deeds on the Assessor's Plat Books, for tax assessment, drawing on the Plat Books the exact size of the property purchased. But this was not done in either recorded deed, the Buente property still showed on the plat book as two lots, in the names of Mother and son, instead of one tract 45 feet on the west side of 18th St. by 125 feet on the north side of Papin, to a 15 foot alley in the name of Anne M. Evans. The name on the Assessor's books remained Buente, so that Appellant was deprived of all notices due her by virtue of her being the owner of record of the property, in violation of her constitutional rights to NOTICE, as a part of Due Process of Law under the 14th Amendment of the Constitution, Sec. 1; as a part of due process of law required.

Likewise, the Prante property showed on the Plat Bk as three lots, separately described, and the name on the assessor's Books remained Prante, so that Appellant was again deprived of all notices due her by virtue of her being the owner of record of this property.

As both pieces of property were improved with brick buildings in a delapidated condition, much money had to be exoended during the years when the banks were closed, and cash was scarce, yet the need for employment was great. Appellant supplied cash from her meager teacher's salary from month to month.

Without notice to appellant, the owner of record, whose title was adverse to that of the former owners, the Buente and the Prante family, and whose deeds were received by the Sheriff from the Caty of St. Louis itself, the City advertised these properties Nov. 11, 1937 in the Daily Record for sale for the general tax which the former owners had not paid since 1914. Appellant's general tax for newly recorded property was due in December, 1937. The City received certificates of title, No, 1485 for the west 25ft 6 inches on Papin, by 45 ft. deep (the part improved by 2 story brick in name of Harry Buente, and certificates No. 2134, 2135, 2136 in the names of Chas. and Clara Prante, for which the City paid $1.00 each, The total amount included in the Collector's Deeds from Prante to the City, included redemption of previous certificates No. 669, 676 and 677, all of which interests had been sold out in the execution of the City Benefit Judgment to Appellant. All lien holders could share in the proceeds of the sale proportionably. Appellant does not consider that her property had been sold out. While the descriptions covered a part of the property, they were not described accurately in the Daily Record, which is the only notice required under the Jones-Munger sales; and the Collector's Deeds showed on their face that they were a transfer of the Buente's and the Prante's interests.

On page 43 of the Buente Tr. appellant stated,' This was a condemnation proceeding,' but the Judge not realizing that mine was a Sheriff's Deed, on page 44 said, 'it was in the name of Buente, but it was your property according to the Warranty deed,' . In 5 years the City secured and recorded these 4 Collector's Deeds, from the Buentes and the Prantes to the City of St. Louis. The Collector's Deed from H. Buente recorded in Book 6019, page 83, was introduced in evidence (see Buente Tr. p. 46.)

The three Collector's deeds from Charles and Clara Prante to the City were introduced in evidence(see p Tr. p. 42, 43, 44, are the 3 collector's Deeds. On p. 44 and 45 are the three certifications by Anthony J. Denny, Recorder:

> 'I the undersigned, Recorder of Deeds for said City and State, do hereby certify the foregoing to be a true copy of the instrument of writing executed by Chas. and Clara C. Prante, by Collector to the City of St. Louis together with acknowledgment and date of filing and recording thereof, as the same remains of record in my Office in Book 6015 Page 155-156.'

The same certification was made in the Buente deed The City, relying on these 4 Collector's deeds to convey the title back to themselves, without notice to Appellant have ordered her tenants out, after collecting the rents for some time; and have torn down her property, without having paid appellant one cent, for it, or given any accounting of rents collected.

Appellant brought a suit in 1945 trying to clear title as between herself and the City, It was reported in Cause 75398-C . The Court stated the suit was prematurely brought. 355 Mo. 790; 198 S.W. 2d (9).

Appellant entered as an intervenor in City v. Wall

and asked that her purchase price be returned to her, as the City did not intend to allow her to have the property for which she was the highest bidder at another sale, but the Court advised, that having purchased it, she was required to keep it.

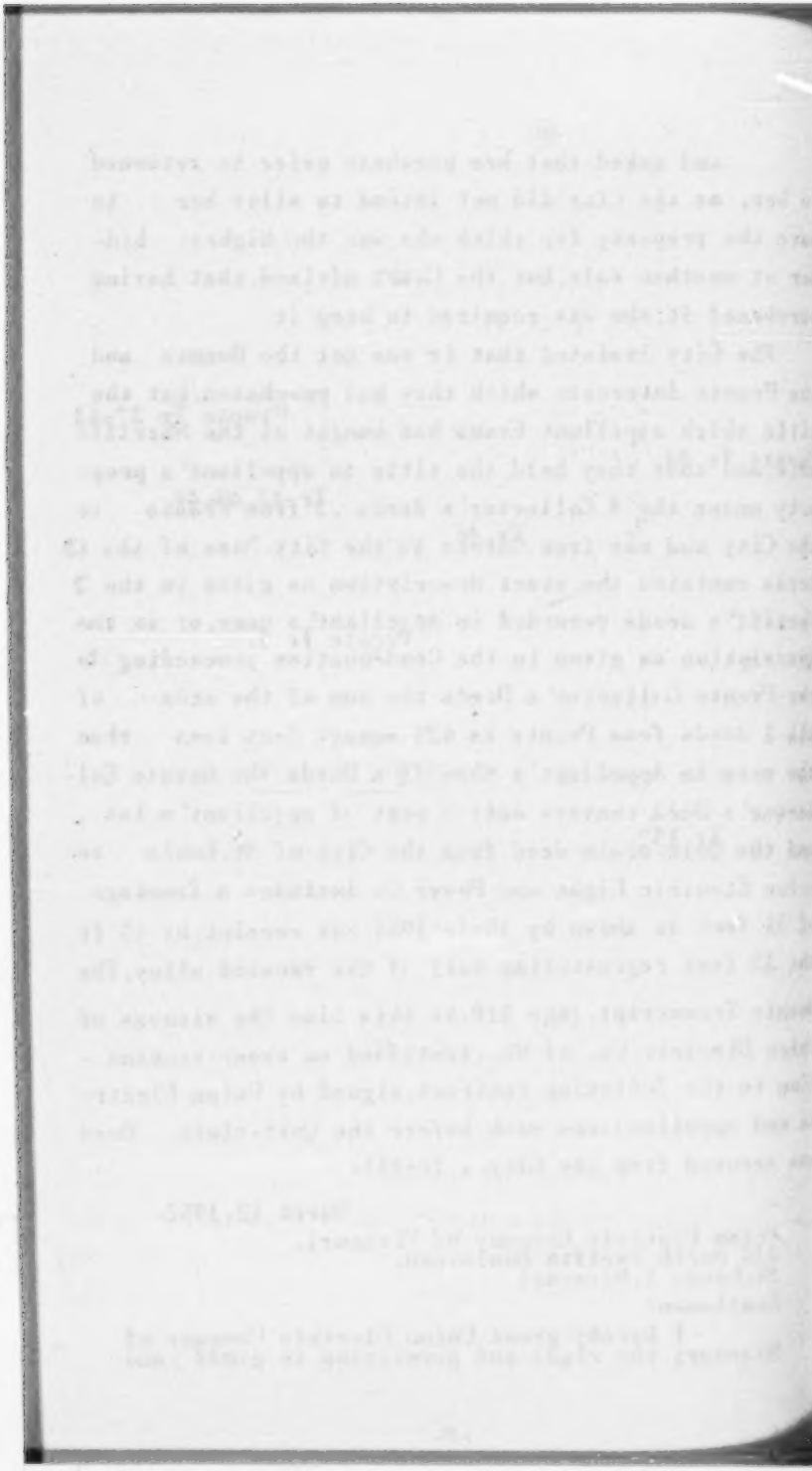
The City insisted that it was not the Buente and the Prante interests which they had purchased, but the title which appellant Evans had bought at the Sheriffs Prante Tr 37,41
sale, and that they held the title to appellant's property under the 4 Collector's deeds, 3 from Prante to Buente Tr 34 Tr 43,45,46
the City and one from Buente to the City. None of the Collector's deeds contains the exact description as given in the 2 Tr 46
Sheriff's deeds recorded in Appellant's name, or in the description as given in the Condemnation proceeding. In Prante Tr
the Prante Collector's Deeds the sum of the area of all 3 deeds from Prante is 62½ square feet less than the area in Appellant's Sheriff's Deeds. The Buente Collector's Deed conveys only a part of appellant's lot, and the Quit-claim deed from the City of St. Louis to Tr 157
Union Electric Light and Power Co includes a frontage of 33 feet as shown by their 1953 tax receipt, by 45 ft the 33 feet representing half of the vacated alley. The Buente Transcript, page 210. At this time the witness of Union Electric Co. of Mo., testified on cross-examination to the following contract, signed by Union Electric and appellant, one week before the Quit-claim Deed was secured from the City, to-wit:

March 12, 1952

Union Electric Company of Missouri,
315 North Twelfth Boulevard,
St. Louis 1, Missouri

Gentlemen:

I hereby grant Union Electric Company of Missouri the right and permission to grade and



POOR

level Lots 11 and 12 in City Blovk 2283, in the City of St. Louis, owned by me, to a grade comparable to the existing level of the sidewalk surrounding my property on the west side of 18th St and north side of Papin Street.

It is understood and agreed that Union Electric Company of Missouri shall indemnify, protect and save harmless the undersigned from and against any and all damages, claims, demands, causes of action, costs and expenses of every kind for or on account of damage to property or death of or injury to any person resulting from or caused by or growing out of such grading operation.

This permit shall become null and void when such grading operation is completed, which shall not be later than May 1, 1952.

Yours very truly,

(Signed) Anne M. Evans

(Signed) R. C. Raack,
Asst R/W Agt.

Pltfs. Ex. 17
4/6/54
W. H. B.
Buente Tr. 213.

The City, claiming the ownership the ownership of the land through the Collector's deed from Buente, and with full knowledge of the existing recorded deed to appellant, treated the property as their own, and without condemnation or other notice to appellant, tore down a two story brick building on it, and not remit any money paid them by the Wrecking Co. for the material, which they hauled away.

The City purchased certificates of title to the Prante property No. 2134, 2135, 2136 on 13th Street, for which the City paid $1. each, the total amounts showing on the collector's Deeds included redemption of previous certificates No. 669, 676 677 which dated back to unpaid taxes of 1922. Prante Tr. 45. The Publication of notice of delinquent tax sales on Prante Tr p. 46 give no description of the property so are inadequate. The Collector's Deeds on p. 45 show lot 6 to be 25 by 106 feet, lot 7, 25 by 106ft., and lot 8, 25 by 106 feet; but the Sheriff's Deed on p. 38 show lots 7 and 8, 107½ft.

In 5 years, 1941 the City secured and recorded these 4 Collector's Deeds, from the Buentes and Prantes, respectively to the City of St. Louis. None of them contained the Appellant's name, the owner of Record as the Tax Debtor, nor the correct description as shown on appellant's Sheriff's deeds recorded 1936.

The City relying on these 4 Collector's deeds to convey the title back to themselves, without notice to Appellant have ordered her tenants out, B.Tr. 46 and torn down the property. They now desire to transfer title to the west 25½ feet on Papin, to the Union Electric Light and Power Co of Missouri, and the Prante property to the St. Louis Housing Authority and the U.S. Housing Authority. The Electric Co. accepted a Quit claim deed from the City for the west 25½ ft. on Papin hoping thereby to secure the 7½ feet of the adjacent alley for themselves, and paid 2 years taxes on it, holding up Appellant's suit to quiet title by entering it as an Intervenor claiming ownership through the very Collector's deed of Prante to the City, which was the subject of scrutiny, and the point at issue in the case. By admitting Union Electric to enter as a party at interest, it was a prejudgment, and practical admission by the Court that the Collector's deed did convey some title, which was unwarrantable since this was the point at issue. In the mean time Appellant had filed suit in her name to clear title of the east 99½ ft. by 45 ft. on 18th St. She received a decree June Term 1948 Cause 17723-D that fee simple title was vested in her, and that she had paid an adequate considetation therefor at the time said property was bought.

Thereafter appellant paid the tax bills issued in 47, 48, 49, and 1950 Buente Tr. p. 98. The bills were in the name of Anne M. Evans, and no back taxes claimed thereon. The property was described correctly. It was an official receipt marked 'paid' Nov. 18, 1950. Thereafter, appellant learned that the sheriff had been instructed B. Tr. p. 104 in tax suit 32000 to make a non-est return; publication was had Dec. 7, 1949 for tax for 1944, 1945, 46 back years which were not shown on her receipted tax bill for 1949 or 1950 as being still due and unpaid. The Court in its opinion regarding the sustaining a judgment against Appellant when she was not really before the Court because not personally served, when she was teaching in the City schools, stated she had no meritorious defense. Her paid tax bills from 1947 thru 1950 was her defense.

The City has admitted and the Court decreed that title to the East 99½ feet is vested in appellant. This represents 4/5 of the entire tract, and she is therefore entitled to 4/5 of the alley for public utility purposes, even if the Court has given away the fee to Union Electric to 25½ feet of the tract described in her Sheriff's Deed. Appellant contends that if her title is good on 99½ ft, it is good on the other 25½ ft. of her 125 ft described in her sheriff's Deeds, that the Union Electric had no status to enter as an intervenor in this suit on a Quit-claim deed from the City of St. Louis based on a collector's deed from a former tax debtor Harry Buente.

The Supreme Court decisions in both cases, failed to make a statement of the facts presented that the 4 Collector's Deeds upon which the title to the Papin

Street property and the 13th St. property, did not correctly describe the property, did not contain her name as the tax debtor, nor as the grantor, hence could not transfer her interest in it. Yet both decisions apparently validated the title to a part of the Papin St. property in Union Electric Light and Power Co. of Mo. and all but 62½ square feet of the other property was given to the City of St. Louis, the Intervenor in the other suit, as a cash payment of $8100, and validated the transfer of the 3 collector's deeds to the St. Louis Housing Authority who in conjunction with the U.S. Housing authority have raised about $185000 from the sale of tax exempt bonds, using appellant's land as security therefor.

Both the Union Electric and the City of St. Louis were Intervenors in their respective suits. They did not furnish the necessary proof of ownership necessary, to enter as an intervenor: relied on collector's deeds from former owners, recorded subsequent to Appellants deeds, yet permitted to enter the suit, they were supported in their contention by the two judges of the Circuit Court, and all the judges of the Mo. Supreme Court, as the decdsion in Div. No. 1 was followed, in Div. No 2.

The basis of the Supreme Court's Judgment is a procedural matter, dismissing Appellant's cases because the Intervenor's, who had not proven any ownership in the property, had been permitted to enter as intervenors, and had refused to sign the two full transcripts of the Record which appellant had provided at great cost, and great trouble, although the plaintiff and defendants attorneys had both verified the

Record as correct, and the Intervenors failed to file any correction of the two Transcripts, if there were in fact any corrections, as required under the most recent Rules of the Mo. Supreme Court, Rule 1.04 (a) amended Jan. 12, 1954 effective Sept. 1, 1954 to-wit:

'If the respondent is dissatisfied with the appellant's transcript, he may within the time allowed for serving his brief, file such additional part of the record as he deems necessary.

There was filed as Plaintiff's Exhibit 14 a copy of a part of the Transcript of the record in Cause No. 75398C in the St. Louis Circuit Court, Evans v. City of St. Louis, and numbered 79785 in the Supreme Court of Mo. May Term 1946, (See pages 134 to 143 inclusive of this Transcript filed by appellant. It gives the facts of the Buente property under counts 7, 8, 9, 10 Tr. 135 to 138 with the City's Answer, Tr. 139 and 140, and Stipulations signed by parties Tr. 141. We find here, that it is admitted by the City that suit for taxes No 15,033 vs Buente was not dismissed before Nov. 1, 1937 when the City claims to have bought it under Jones-Munger Law. The statutes provide only one way to collect back taxes. Having elected to sue, collection by sale would not be available until the suit was dismissed, which was not done until Nov. 18, 1942 as admitted by the City. The City, after selling the property to Evans by the special execution of the city benefit judgment on March 28, 1936 (See date of Sheriff's deed Tr. 34) undertook to collect the general tax as well as the City Benefit tax, by a third method, engrafting improper Tax claims on a suit to quiet title, the suit at bar, and has succeeded in getting a judgment of a fifth of her property, the amount given to Union Electric Co., and a money judgment for $2,923.74 (to April 1, 1954) which

the Supreme Court reduced this amount $1,129.99, leaving a balance of $1,793.75 which has judicial sanction. Appellant is about to loose her property thereby, to a Public Utility Corporation and to the City of St Louis, without receiving payment of any money therefor but years of litigation and abuse, unless her constitutional rights to notice, and due process of law, and equal protection of the law are protected by a decision of the U.S. Supreme Court,

It is admitted by the City Tr. 141,

> 'The Assessor's copy of deeds recorded shows the tract in entirety in sheriff's deed recorded March 28, 1936 to Anne M. Evans.... The plaintiff in this suit was not a party to any of the foregoing suits,'

Due to this long drawn out, continued suit, Appellant is in arrears taxes on the 99½ feet for the years 1951, 52, 53, 54, and 1955 during which time she has had no use whatever of her property.

Tr 270 Brente property shows that all documentary exhibits were offered as a part of the Transcript and are herewith transferred to the U.S. Supreme Court,

WHEREFORE appellant prays that her application for for the issuance of the Writ of Certiorari be granted; that the judgment in the Missouri Supreme Court in No.. 44,701 and No. 44,807 be reversed and remanded; that the appellant Anne M. Evans is vested with fee simple title absolute, to all the properties described in her two Sheriff's deeds filed for record in Book 5575, page 50, March 28, 1936, and in Book 5604 page, 510 Sept. 22, 1936, in the Office of the Recorder of deeds, St. Louis, Mo. free of all tax liens except five years back taxes, dating back five years from the date her name is entered on the Plat Books; Costs assessed against City and Union Elec. Co of Mo, a Corp, Resp and Interv. and against St. Louis Housing Authority, Pl. and City of St. Louis, Interv.

Respectfully submitted,
Anne M. Evans, Atty pro se.,
913 N. Twelfth Blvd.
St. Louis, 1, Mo.

IN THE SUPREME COURT OF MISSOURI
Division Number Two
Sept. Session, 1955

| | | |
|---|---|---|
| St. Louis Housing Authority, a Municipal Corporation, Respondent, vs Anne M. Evans, Appellant, City of St. Louis, Respondent. | ) | Opinion Tr. 107. No. 44,807 Duplicate of filing on Dec 12, 1955 in the Office of Clerk of SUPREME COURT |

Appeal From The Circuit Court of The City of St. Louis, Honorable Robert L. Aronson, Judge.

(Transcript Prante Property p 107, 111.)

This is an appeal by Anne M. Evans from eminent domain proceedings instituted by St. Louis Housing Authority, a municipal corporation, herein referred to as condemner, to acquire certain real property for the purpose of slum clearance and erection of low-rent housing projects. (Par 99.010--99.230. Statutory references are to RSMo 1949 and VAMS unless otherwise indicated.) Among the different tracts involved were 'Lots 6, 7 and 8 of B. A. Soulard' s Addition and in Block 412 of the City of St. Louis**, 'known in the record as 'Parcel No. 18. Both Miss Evans and the City of St. Louis, a municipal corporation, claimed title to said parcel. The commissioners awarded $8,100 damages and compensation, for the taking of said parcel; and, after hearing, the trial court awarded the $8,100 to the City. Miss Evans has appealed, joining St. Louis Housing Authority and the City as respondents.

The transcript of the record filed here, agreed to by Anne M. Evans and condemner, discloses, so far as material, the following: Condemner instituted the proceed-

ing on September 25, 1953. On December 17, 1953, Miss Evans, appearing pro se, filed a pleading captioned: 'Answer of Anne M. Evans,' alleging, among other things that she was the owner of said Parcel 18, that she was not indebted to the City for any taxes, and that she valued said property at $95,000. Thereafter, January 7, 1954, the court appointed commissioners to assess the damages for the taking of the property. On February 9, 1954, said commissioners filed their report, awarding $8,100.00 as damages and compensation for the land and improvements on Parcel No. 18. The $8100.00 was paid into the registry of the court on February 11, 1954. No exceptions were ever filed by Miss Evans to said award.

On October 11, 1954, Miss Evans filed a motion for the distribution to her of the $8100. award. On October 29, 1954, the City filed a motion for an order to distribute said award to it. Miss Evans filed a motion to dismiss the last mentioned motion of the City and for the payment of said $8,100 to her, alleging that she was the owner of said property and that the tax sale proceedings and deeds under which the City claimed title did not affect her title to said property. A number of exhibits were attached to said motion to dismiss.

On Nov. 12, 1954, a hearing was held in which Miss Evans and the City appeared. Miss Evans appeared pro se and was represented by counsel. She testified at the hearing. The hearing was on both motions for distribution and Miss Evans' motion to dismiss the City's action for distribution.

Miss Evans introduced in evidence a sheriff's deed under a special execution issued on a judgment entered October 16, 1930, for the nonpayment of benefits assess-

ed in a condemnation proceeding, conveying the lots aforesaid to Anne M. Evans. The deed bears date of September 22, 1936, and was recorded in the office of the Recorder of Deeds Sept. 23, 1936. It recites, among other things, that the sale was held July 21, 1936, and that Miss Evans paud $141.06 for each of said three lots, or a total of $423.18.

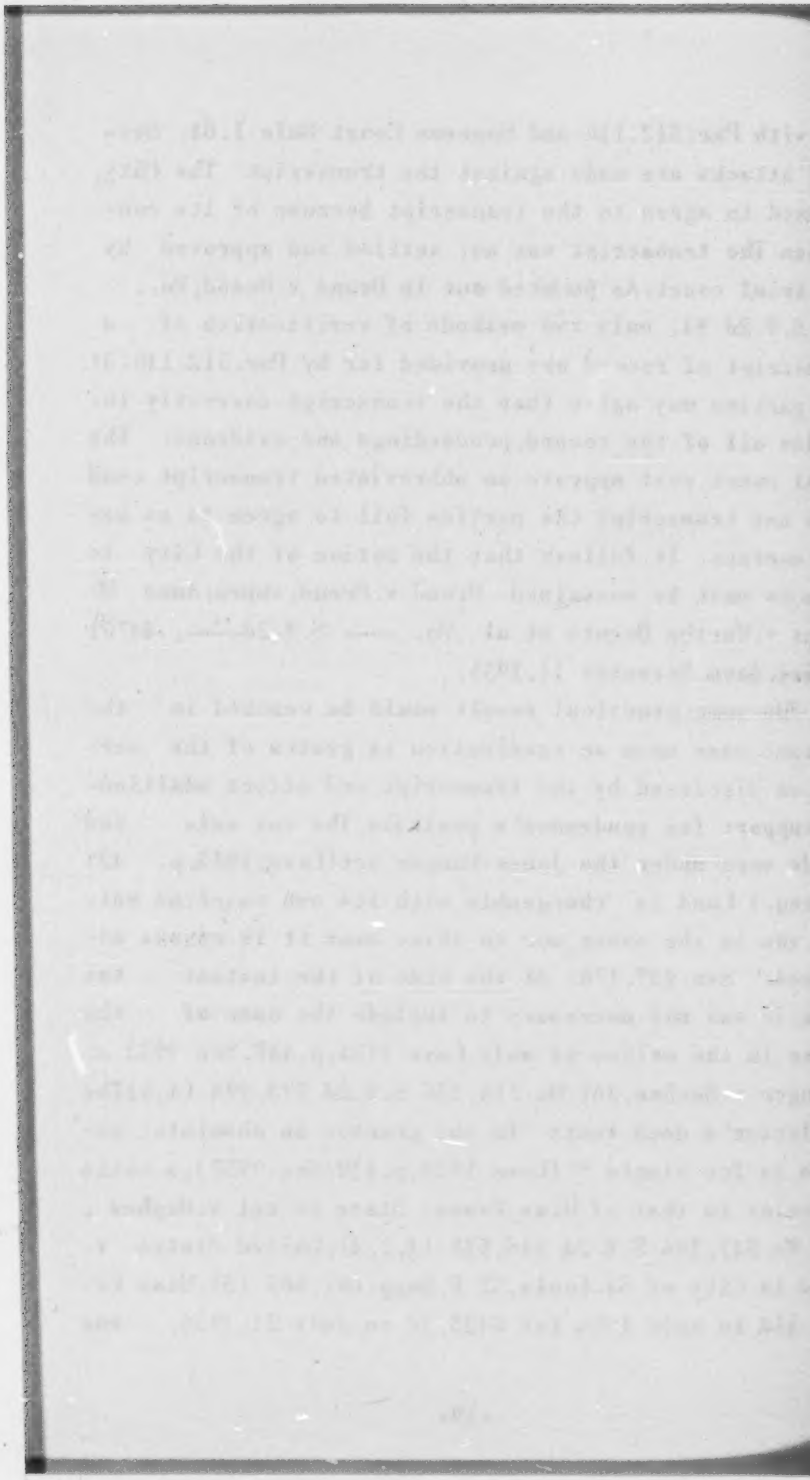
The City introduced in evidence its tax deeds and offered testimonycovering the tax sale proceedings. The City's exhibits are not found in the transcript, But certified copies of said deeds were attached to Miss Evans' aforesaid motion to dismiss and were offered in evidence by her. The transcript indicates that the three tax deeds, one for said Lot 6, one for said Lot 7, and one for said Lot 8 were executed August 8, 1941, and recorded in the office of the Recorder of Deeds September 2, 1941. The lots were first offered for sale for the nonpayment of taxes in November, 1935, and again in November, 1936, and a third time in November, 1937, at which sale the City was the highest and best bidder, and received certificates of purchase. At the sale in November, 1937, each lot was sold for the nonpayment of general taxes for the years 1930 through 1936. The respective deeds state Lot 6 was sold for $262.54; Lot 7 was sold for $262.56, and Lot 8 was sold for $264.05.

Miss Evans testified that she collected the rents until about 1941, 'as near as I can recall,' and that 'the City seized the property about 1941.' She never paid any taxes on the property. Her pleading herein attacking the City's tax deeds was filed in Nov. 1954.

The City filed a motion to dismiss the appeal on the ground the transcript of the record does not com-

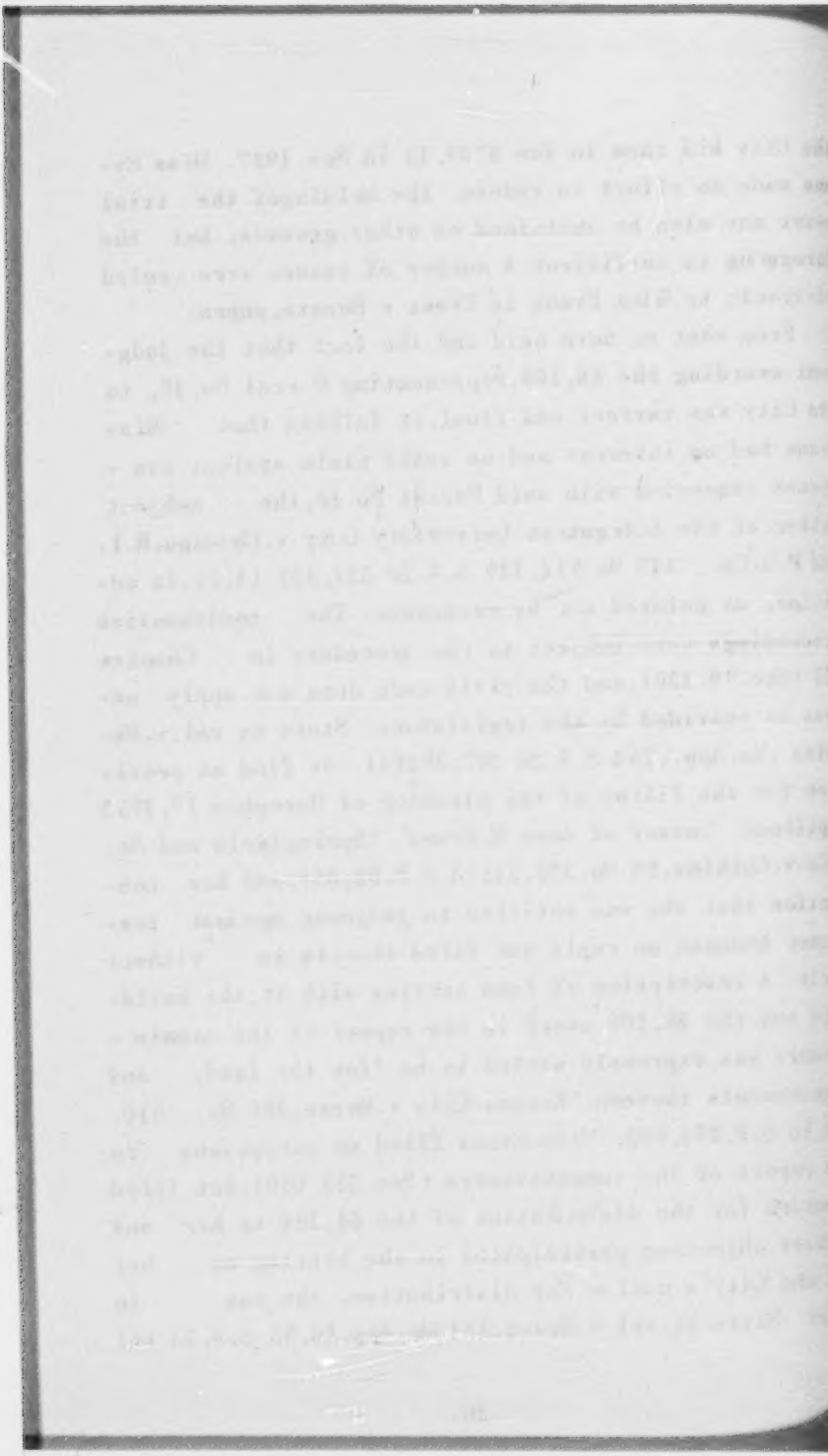
ply with Par:512.110 and Supreme Court Rule 1.04. Several attacks are made against the transcript. The City refused to agree to the transcript because of its condition. The transcript was not settled and approved by the trial court. As pointed out in Brand v. Brand, Mo., 245 S.W.2d 94, only two methods of verification of a transcript of record are provided for by Par.512.110(3). The parties may agree that the transcript correctly includes all of the record, proceedings and evidence. The trial court must approve an abbreviated transcript and also any transcript the parties fail to agree to as being correct. It follows that the motion of the City to dismiss must be sustained. Brand v. Brand, supra; Anne M. Evans v. Martha Buente et al., Mo., ---- S.W.2d----, 44701 handed down November 14, 1955.

The same practical result would be reached in the instant case upon an examination ex gratia of the merits as disclosed by the transcript, and afford additional support for condemner's position. The tax sale and deeds were under the Jones-Munger act (Laws 1933, p. 425 et seq.) Land is 'chargeable with its own taxes, no matter who is the owner, nor in whose name it is or was assessed.' Sec. 137.170. At the time of the instant tax sale, it was not necessary to include the name of the owner in the notice of sale. Laws 1933, p.430, Sec 9952 a; Granger v. Barber, 361 Mo. 716, 236 S.W.2d 293, 296 (4,5) The collector's deed vests 'in the grantee an absolute estate in fee simple *' (Laws 1933, p.438, Sec. 9957), a title superior to that of Miss Evans. State ex rel v. Hughes, 350 Mo. 547, 166 S.W.2d 516, 518 (1,2,4); United States v. Land in City of St. Louis, 57 F. Supp. 601, 605 (5). Miss Evans bid in said lots for $425.18 on July 21, 1936, and



the City bid them in for $709.15 in Nov. 1937. Miss Evans made no effort to redeem. The holdingof the trial court may also be sustained on other grounds, but the foregoing is sufficient. A number of issues were ruled adversely to Miss Evans in Evans v. Buente, supra.

From what we have said and the fact that the judgment awarding the $8,100, representing Parcel No. 18, to the City was correct and final, it follows that Miss Evans had no interest and no valid claim against condemner connected with said Parcel No. 18, the subject matter of the litigation. University City v. Chicago, R.I. and P.R.Co., 347 Mo. 814, 149 S.W.2d 321, 323 (1, 2). In addition, as pointed out by condemner: 'The condemnation proceedings were subject to the procedure in Chapter 523 (Sec. 99.120), and the civil code does not apply unless so provided by the legislature. State ex rel. v. Hawkins, Mo. App., 264 S.W.2d 387, 392(4). We find no provision for the filing of the pleading of December 17, 1953 captioned 'Answer of Anne M. Evans' (Springfield and So. R.Co. v. Calkins, 90 Mo. 538, 545, 3 S.W. 82, 85), and her contention that she was entitled to judgment against condemner because no reply was filed thereto is without merit. A description of land carries with it the buildings and the $8,100 award in the report of the commissioners was expressly stated to be 'for the land and improvements thereon.' Kansas City v. Morse, 105 Mo. 510, 519, 16 S.W. 893, 895. Miss Evans filed no exceptions to the report of the commssioners (Sec. 523.050), but filed a motion for the distribution of the $8,100 to her and without objection participated in the hearing on her and the City's motion for distribution. She was in court. State ex rel. v. Brown, 231 Mo. App. 56, 95 S.W.2d 661



669; Butler County R. Co. v. Barron, 173 Mo. App. 365, 370, 158 S.W. 872, 874. The payment of the award into court substitutes the fund for the property taken and the instant condemner was not concerned with the rights of the rival claimants thereto. Consult State ex rel. v. Hall, 325 Mo. 165, 28 S.W. 2d 80, 82.

The appeal is dismissed as to respondent City of St. Louis and the judgment is affirmed as to respondent St. Louis Housing Authority.

Walter H. Bohling,

Commissioner.

Barrett, C. Concurs
Stockard, C. Concurs

Per Curiam: The foregoing opinion by Bohling, C. is adopted as the opinion of the court.
All concur.

Prante Transcript pages 107 to 111.

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Prante Transcript page 104. On the 26th day of Sept. 1955, the Court denied appellant permission to file a copy of the 'St. Louis Housing Authority Overall Project Sheet', as prayed in her Motion to Permit the filing of Facts of Public Knowledge, to-wit:

> Comes now Appellant in above entitled case, and moves the Court to permit the filing of facts of public knowledge, publicized by St. Louis Housing Authority Overall fact sheet, Distributed by them, Showing the Project Cost for the Darst Apartments of 1238 Dwelling Units to be $16,987,000.00 or $13,721.00 per Unit or $205,815.00 for 15 Units, the number of Appellant's Units demolished. This has already been secured from the tax-payer, through the sale of the Tax-free, A-1, low-rent Government Bonds, and is $80,815.00 more than the $125,000.00 asked, for the 15 Units belonging to Appellant, which were taken by the City of St. Louis and the St. Louis Housing Authority, without the payment of one cent or the return of purchase price or the thousands of dollars spent on repair and upkeep since 1936 to 1955. The average project cost per Dwelling Unit for all the Projects is $12,249.69, or $183,745.35 for fifteen units; $58,745.35 more than the $125,000.00 asked for by Appellant, without regard to tripple damages allowed under Federal Law, or the refund of her expense and the question of title is in litigation since 1945.
>
> Appellant, on her oath, states that the foregoing facts are true to the best of her knowledge and belief.
> Oath, Seal and Service.

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Decrees of Supreme Court of Missouri

St.Louis Housing Authority, A Municipal Corporation,
Plaintiff-Respondent,
vs. 44807
Elsie Schacht et al., Defendants
Anne M.Evans Defendant-Appellant No. 67867-D Div.8.
City of St.Louis, a Municipal Corporation, Intervenor-
Respondent.

Tr.106. Dated Dec.12th, 1955.

Now at this day come again the parties aforesaid, by their respective attorneys, and the court here being now sufficiently advised of and concerning the premises, doth consider and adjudge that the appeal herein as to the respondent, City of St.Louis, be and the same is hereby dismissed. It is further considered and adjudged by the court that the judgment aforesaid, in form aforesaid, by the said Circuit Court of the City of St.Louis rendered, as to the respondent, St.Louis Housing Authority, be in all things affirmed, and stand in full force and effect; and that the said respondents recover against the said appellant their costs and charges herein expended and have therefor execution. (Opinion filed)

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Anne M.Evans, Appellant
vs. 44701
Martha Buente et al., Defendants, No.45342-D Div.2
The City of St.Louis, a municipal Corporation, and
Union Electric Co., of Missouri, a corporation,
Respondents.

Tr.271. Dated Nov.14, 1955.

Now at this day, comes the said respondent, Union Electric Company of Missouri, by attorney, and upon its motion, it is considered and adjudged by the Court that the appeal herein be and the same is hereby dismissed as to said respondent, Union Electric Company of Missouri.

Now at this day come again the parties aforesaid, by their respective attoeneys, and the Court here be-

cont. page

Duplicate of Opinion Filed Nov. 14, 1955

IN THE SUPREME COURT OF MISSOURI

Division Number One

September Session, 1955

| | | |
|---|---|---|
| Anne M. Evans, Appellant, vs Martha Buente et al., The City of St. Louis, and Union Electric Company of Missouri (Intervenor) Respondents | ) ) ) ) ) | Buente Transcript p. 273. No. 44,701 |

Appeal from the Circuit Court of the City of St. Louis, Hon. Robt. J. Kirkwood, Judge.

Plaintiff (appellant) Anne M. Evans, instituted the action seeking to quiet title to two contiguous parcels of real estate in the City of St. Louis. Each parcel was made the subject of a separatecount. The court decreed that the defendant (respondent), Union Electric Company of Missouri, was the owner of the fee simple title to the property described in the first count of the petition. As to that described in the second count, the court found the title to be vested in plaintiff, subject to a lien for taxes, including interest and other legal charges, in the sum of $ 2,923.74, which taxes were held to be properly payable to and collectible by the City of St. Louis (respondent) There were a number of individuals that were made defendants, apparently because of some previous record interest in the real estate. They defaulted and the decree divested them of any title or interest in either parcel of the land in question. The plaintiff has appealed. We have jurisdiction of this appeal as titlr to real estate is directly involved, and we are also

certain revenue laws of this State. Article V, Section 3 Constitution of Missouri, 1945.

Plaintiff purchased all of the property herein mentioned for $143.26 at a sheriff's sale held by virtue of the levy of a special execution issued upon a benefit judgment previously rendered in a condemnation suit At that time general taxes for 1930 and all subsequent years were unpaid. Plaintiff inquired about the taxes but refused to pay them as she entertained the view (obviously erroneous ) that she was only required to pay such taxes as were assessed in her name. She never paid any taxes on the land involved in the first count and none were paid on the other parcel until 1947.

The Jones-Munger Act, Laws of Missouri, 1933, pp 425-449, see now as re-enacted and amended, Chapter 140, Title 10, RSMo 1949, V.A.M.S., was then applicable to the City of St. Louis. In an effort to collect these delinquent taxes, the parcel described in the first count was advertised and offered for sale for the third time on November 1, 1937, and was purchased by the City for $33.75. Plaintiff contends this sale was void because the price paid was grossly inadequate. After this suit was instituted the City sold this parcel to Union Electric Company; that corporation was permitted to intervene as a defendant and filed an answer and cross-bill in which it sought a decree to the effect that it was the fee simple owner of the land.

W. J. Holdway became the purchaser of the other parcel at the aforementioned tax sale and received a certificate of purchase. However, after the lapse of the period of redemption, this purchaser apparently refused, to pay taxes that had subsequently become due and therefore never received a deed to the land.

The Jones-Munger Act, with respect to the sale of property for the collection of delinquent taxes in the City of St.Louis, proved to be unsatisfactory. Therefore, in 1939, the Act was amended by the enactment of eighteen new sections, applicable to said city, which provide for the collection of delinquent taxes by suit Laws of Missouri, 1939, p.878, Sections 9952A-1 to 9952A-18, inclusive, see now, as re-enacted and amended, Sections 141.820 to 141.970, inclusive (unless otherwise indicated, all statutory references are to R.S.Mo 1949, V.A.M.S.) After this law became effective (May 31, 1939), the collector of the City of St.Louis filed various suits seeking to collect delinquent taxes assessed against the parcel described in count two, which will be hereinafter more fully described and discussed.

At the outset we must consider the motion of respondent Union Electric Company to dismiss the appeal, which motion this court has heretofore ordered taken with the case. The main ground relied on by said respondent for dismissal is that the transcript filed herein was not agreed to by it, nor was it settled and approved by the trial court. While unnecessary to a decision on this question, it is also alleged and proved by affidavits that the attorney for said respondent was not given a reasonable opportunity to examine said transcript; that many exhibits were not included; and that a number of pages had been inserted therein after the transcript had been prepared by the official reporter, and delivered to plaintiff. Section 512.110(3) provides in part, as follows: "If the parties agree that the transcript correctly includes all of the record, proceed-

ings and evidence, it need not be approved by the trial court. ***If there is any dispute concerning the correctness of any transcript, or any part thereof, or if the parties fail to agree within a reasonable time as to its correctness, the transcript shall be settled and approved by the trial court.' This provision requiring the approval of the trial court in case the parties fail to agree concerning the correctness of the transcript applies to complete, as well as abbreviated, transcripts. It is obvious that it applies to the transcript in this case. Since it clearly appears that the transcript herein was not agreed to by the Union Electric Company, and was not settled or approved by the trial court, it necessarily follows, under the situation here presented, that the appeal must be dismissed in so far as applicable to the respondent, Union Electric Co of Missouri. Brand v. Brand, Mo Sup., 245 S.W. 2d 94; Gildehaus v. Jones, 356 Mo. 8, 200 S.W. wd 523. We will therefore give no further attention to the issues raised by the first count of plaintiff's petition and the pleadings responsive thereto. The City claims no interest in the land described in that count.

The defendant, City of St. Louis, agreed to the transcript and hence we will proceed to determine the questions presented upon this appeal as relate to the second count. The City concedes that plaintiff owns the the parcel of land described in that count. The only issue for our determination is the amount of the taxes that had been assessed against said land, were unpaid and a lien thereon at the time of trial. In her petition plaintiff alleged 'that she is still ready, willing and able to pay such general taxes on said proper-

ty as the court may find properly and legally due thereon.' The trial court included in the aggregate amount allowed as a lien, all of the taxes the city contended were due and unpaid. We will therefore consider here the various assignments wherein plaintiff asserts the court erred.

We will first consider the taxes for the years 1931 to 1935, inclusive, which apparently totaled $ 1,129.99. The amount is comparatively large because of the accumulation of interest and penalties over a long period of time. Suit was filed to collect these taxes (as well as taxes for the year 1943) on December 20, 1944. Plaintiff contends that the collection of these taxes was already barred by the statute of limitations before suit was instituted. We are satisfied that the sale of this property at the tax sale in 1937 (and the offer for sale in prior years) tolled the operation of the statute of limitations until the enactment of the aforementioned tax collection law of 1939. Scott v. The Unknown Heirs of Solomon Garrison, 361 Mo. 643, 235 S.W.2d 372. Prior to 1939 the applicable statute of limitations was Section 9961, Laws of Missouri, Extra Session 1933-1934, page 154 (see now, as amended and re-enacted, Section 140.160 R.S.Mo 1949, V.A.M.S.), which provided that no sale would be valid 'unless initial proceedings therefor shall be commenced within five years after delinquency ***.' However, the 1939 enactment, which we have heretofore mentioned included Section 9952'-12, Laws of Missouri 1939, p. 883 (see now, as re-enacted and amended, Section 141.890), which provided as follows: 'No action for recovery of taxes against real estate shall be commenced, had or

maintained, unless action therefor shall be commenced, within five years after delinquency, excepting taxes now delinquent, on which suit may be commenced within five years after this act shall take effect, but not thereafter.' There can be no question but that the 1931-1935 taxes were delinquent when the above quoted act took effect, i.e., on May 31, 1939. It is therefore apparent that suit to recover said taxes was required to be commenced on or before May 31, 1944. Since it was not commenced until December 20, 1944, it is clear that the recovery of the taxes for said years was barred by limitation.

A judgment for the amount of the taxes due and unpaid for the years 1937 to 1939, inclusive, was rendered on August 18, 1941. It is argued by plaintiff, that since this judgment has never been revived, it is no longer a lien on the land. Under many circumstances, general judgments cannot be collected (although, there are exceptions) after the lapse of ten years from the date of rendition or revival. Sections 511.370 and 516.350. However, these sections do not apply to this judgment since Sec 141.920, a special statute, applicable to tax judgments in the City of St. Louis, provides as follows: 'The lien of general tax judgments provided for in sections 141.820 to 141.970, to be a continuing lien and shall not be barred by lapse of time or limitation, but shall terminate only upon payment as herein provided, or sale under execution.'' It is obvious from the provisions of this section that we must rule this assignment against plaintiff.

Plaintiff next complains that no service was had upon her in the suit filed in December, 1943, to col-

lect taxes for the years 1940 to 1942, inclusive. No case is cited to support her contention that these taxes are no longer a lien. Also, we have searched the transcript and find no evidence to support this assignment. The evidence merely discloses that the suit was filed. Apparently no judgment has been rendered therein The statute provides that such a suit shall be 'against the owner of the property, if known, and if not known then against the last owner of record, as shown by the city records at the time the suit was brought.' Section 141.900(1). The evidence does not indicate whether the plaintiff, or some previous owner of record was made defendant in that suit. Under such facts as are shown in this record, we hold that the filing of the petition was a commencement of the action and tolled the operation of the statute of limitations. State ex rel. v. Producers Gravel Co., 341 MO. 1106, 111 S.W.2d 521.

In a further effort to reduce the amount of the tax lien on said real estate, plaintiff has assailed the validity of the judgment rendered for delinquent taxes for the years 1944 to 1946, inclusive. This suit was filed Dec. 30, 1948. It appears that at some undisclosed time thereafter, upon instructions from the collector's attorney, the sheriff made a non est return upon the summons. Thereafter, upon the affidavit of said attorney, an order of publication was issued and was duly published in November 1949. Judgment was rendered June. 29, 1950. Plaintiff contends this judgment was obtained by fraud. She proved that during the pendancy of this suit, she was employed as a teacher in the Saint Louis schools and that her name and address was listed in the telephone directory. She admitted, however that

she was probably not in St.Louis during the summer of 1949.

It occurs to us that there may be a number of reasons why plaintiff cannot prevail in her attack on this judgment, but we need mention only one. We will consider this as an equitable action to set aside the judgment because of alleged fraud in its procurement.

It is well settled that a court will not set aside aside a judgment unless the defendant shall allege and present prima facie proof that he has a meritorious defense to the action. Whitledge v. Stieferman, Mo. App., 219 S.W.2d 864; Butcher v. White, Mo. App., 267 S.W.2d 701. The plaintiff (in this action) failed to so allege or prove. On the contrary she admits in her brief that she has no defense to said suit, but contends that the judgment should be set aside and an opportunity be given her to pay the taxes without penalty. There is no basis whatever for the latter part of her request. The rendition of judgment does not affect the amountof interest or penalties payable. The only adverse effect of the judgment was the assessment of a small amount of additional costs against plaintiff. We rule this assignment against her.

Finally, plaintiff complains of the action of the trial court in assessing all of the costs incurred in the circuit court against her. We think the action of the trial court was correct when viewed in the light of the decree in that court which determined all of the contested issues in favor of defendants. However, in view of the fact that our ruling herein will substantially reduce the amount of the collectible taxes, we have concluded that fair and equitable principles

require that three-fourths of the total costs be assessed against plaintiff and one-fourth thereof against the defendant City of St.Louis. Amitin v.Izard,Mo.App., 262 S.W.2d 353.

The judgment is reversed and the cause remanded with directions to the trial court to modify the decree in accordance with the views expressed in this opinion.

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Lawrence Holman,Commissioner

Van Osdol,C., Concurs
Coil,C., Concurs

Per Curiam: The foregoing opinion by Holman,C. is adopted as the opinion of the court. All concur.

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Continuation of Supreme Court Decree in Cause 44701
from page 22. (Buente.Tr.271.)

ing now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment aforesaid, in form aforesaid, by the said Circuit Court of the City of St.Louis rendered, as to the City of St.Louis be reversed, annulled and for naught held and esteemed and that the said appellant be restored to all things which she has lost by reason of that portion of said judgment. It is further considered and adjudged by the Court that the said cause be remanded to the said Circuit Court of the City of St.Louis with directions to modify the decree in accordance with the views expressed in the opinion of this Court herein delivered; and that three-fourths of the total costs be assessed against the plaintiff and one-fourth thereof against the defendant City of St.Louis. (Opinion filed).

IN THE SUPREME COURT OF MISSOURI
Division No.2
September Session, 1955

| | |
|---|---|
| St.Louis Housing Authority, A Municipal Corporation, Respondent, vs Anne M.Evans, Appellant, City of St.Louis, Intervenor - Respondent. | Filed Dec.19,1955. Prante Tr.page 106. No.44,807 Appeal from the Circuit Court of the City of St. Louis, Hon.Robert L Aronson, Judge. |

Motion To Transfer to Court En Banc
And Suggestions in support Thereof.

Appellant files this motion to transfer this case, for re-hearing to the Court en Banc, with her suggestions in support thereof, not for any wish to delay, but because she is aggrieved at the Judgment rendered Dec.12,1955, in these particulars:

1. There were important material facts disclosed by the Record which the Court over-looked in its Finding of Facts, to-wit:

(1) Dec.17,1953, she valued said property at $95,000.00 when improved with 15 resident units, 2 and 3 room apartments.

(2) After Respondents caused it to be torn down without notice to or permission from her, she valued it at $125,000.00.

(3) Condemnation petition mentioned no improvements on the land. The Commissioners' Report included improvements not mentioned in Petition.

(4) Record shows no service on her of the appointment of the Commissioners.

(5) Record shows no personal service on Defendant Evans, giving notice of the Commissioner's Report, but personal service on Milton Carpenter, Comptroller of the City.

(6) Facts supporting Appellant's claim 'That she was the owner of said property, and that the tax-sale proceedings and deeds under which the City claimed title, did not effect her title to said property,' were not mentioned. Tr. 24 h, 24 i, and 24 ', showing the 3 Collector's deeds were were from Prante to the City, and no Collector's deeds from Evans to the City; that the descriptions in these deeds were 62¼ square feet less than in the Sheriff's Deed;

2. The decision was contrary to the evidence, and the law under the evidence. A claim that a Collector's Deed, which neither describes Appellant's property nor bears her name as the tax debtor, although she is owner of record, is fraudulent on it's face, a violation of the Statute of Frauds and the Due process requirement of the Federal Constitution.

3. The Court erred in its Opinion dismissing the Appeal in so far as it was requested by the City of St. Louis under Sec. 512.110 (3) 1949, and Supreme Court Rule 1.04 cited herein. This was supplanted by Supreme Court Rule 1.04 (a) amended Jan. 12, 1954, effective Sept. 1, 1954 which appellant followed:

> 'If the respondent is dissatisfied with the Appellant's Transcript, he may, within the time allowed for serving his brief, file such additional part of the record as he deems necessary.'

This, the Respondent City failed to do. He had access at all times to a copy of the full transcript filed with the case in the Circuit Court.

On next to the last line of Page 3 Rules 1, 2, and

3 of the Supreme Court of Missouri: I quote:

'** 1.04-Transcript on Appeal.See foot note
** Adopted April 12,1949,effective Nov. 1,
1949, and repealing prior rule 1.04; a-
mended Jan.12,1954,effective Sept.1,1954.'

In State ex rel Nat'l Outdoor Adv.Co. v. Seehorn, 187 SW 2nd 657; 354 Mo.170,it is mandatory for a full transcript of the record to be made. Appellant has the responsibility for the filing,and it could not be shifted except that the parties agree. The trial Court has no function to perform, with reference to such a full transcript ( not even allow it,to order it filed or to certify it ) except when one of the parties contests its truth and claims some part of it is incorrect.'

The decision in the case of Brand v.Brand, Mo.245 SW 2d 94 pointed out in the Opinion, was decided in 1952 before Rule 1.04 was amended,hence cannot govern verification of the Transcript,as pointed out.It does say, 'It is the duty of appellant to file a true and correct transcript containing all of the Records etc.' The City held no Collector's Deed or any other conveyance,describing the property deeded appellant,signed by appellant, the title owner of record. Even so,at this late date Appellant is willing for it to be considered if they produce it. When these Collector's deeds can not convey the title, and the City cannot win by fair means,Appellant must rely on the U.S.Constitution which prohibits a person's property from being taken for Public use,without just compensation;or by refusing to sign a full Transcript in

violation of State law, and filing a motion to dismiss, and so secure $ 8,100.00 award of Commission - ers, to which the title owner of Record is entitled. Such an accomplishment might well cause an epidemic of refusals to sign the Transcript prepared by Appel lant.

4. The Court erred in its Opinion, in not requiring a good and valid assessment before charging Appellant's property with any tax liens. The date a tax is due on the property does not indicate that it becomes a lien on the property on that date. The City has collected all the rents on the property for the past 14 years, yet given Appellant no credit for any taxes, as under the case of City vs. Bauman 348 Mo. 164, property owned by the City was tax exempt, so the taxes prop - erly due on the property each year did not become a lien on it.

5. The fundamental requirements of 'notice' fundamental for the constitutional requirements of 'Due process of law,' are not shown in the record (1) Notice of the appointment of Commssioners in the Condemnation suit; (2) Notice of the award made served on City Comptroller, but not on Appellant; (3) Notice which vouod operate by law on placing the title owner's name on the Assessment plats; (4) Notice in the Jones-Munger sales by giving correct descriptions of Appellant's property in the advertisement of sale in the Daily Record, if it was to be sold. The chief issue of lack of notice, as shown by the Transcript, has been passed over in the Opinion of the Court. A Collector's deed giving the correct description of her

property, and showing her name as the Tax debtor would vest in the grantee an absolute title in fee simple,' but not the deed from Prante to the City. Prante had no interest at this time in the property, and it shows on the face of the deed that Prante, not Evans was the tax debtor (See Tr Cause 67867-D, pages 42, 43 and 44.).

Respectfully submitted,
(signed) Anne M. Evans.
Attorney pro se.

Service Dec. 19, 1955. This is to certify that I have this date mailed a copy of this motion to Mr. A. J. Reis, Asst City Counselor 411 City Hall, St. Louis 3, Mo. and to Mr. John J. Shanahan, 506 Olive, Room 806, St. Louis, 1. Mo

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IN THE SUPREME COURT OF MISSOURI
Division No. 1.

| | | |
|---|---|---|
| Anne M. Evans, Plaintiff-Appellant, vs. Martha Buente et al, The City of St. Louis, a Municipal Corporation, Union Electric Co. of Missouri, a Corporation, Defendants-Respondents. | ) ) ) ) ) | Filed Nov. 29, 1955. Buente Tr. pages 280 to 290 No. 44, 701 |

Appeal from the Circuit Court of the City of St. Louis, Missouri, Division No. 2. Hon Robt. J. Kirkwood, Judge

Motion to transfer this case to Court en bank for Rehearing has been filed separately, 10 copies.

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